IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION LODGING NO.2115 OF 2006

Sumitra Ambarnath ..Petitioner

Vs.

Chembur Trombay Education

Society & Ors ..Respondents

Mr. Mihir Desai for the petitioner
Mr.Abhay Patki, for respondent Nos. 1 and 2.
Mr. R.A. Rodrigues, for respondent No.3.
Mr. P.G. Lad, AGP for Respondent Nos. 4 and 5.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 15TH DECEMBER, 2006

P.C.

. Rule. Heard forthwith. The petitioner was appointed against a reserved post. The case of the petitioner is that the post has been advertised as required and as no reserved candidate was available the college moved the University for dereserving the post. The University forwarded the proposal to the State Government which received communication from the University on 14th June, 2006 that the State Government had rejected the proposal in view of the Government Resolution dated 5th December, 1994. The petitioner is due to retire in the ordinary course by 30th June,2007.

2. We have heard learned Counsel for the parties. From the affidavit filed it appears that the post was advertised for more than 5 times previous to 5th October, 1994. In other words if there was compliance of 5 advertisements previous to

5th October, 1994 the Government Resolution dated 5th December, 1994 would not apply as it applies to the cases after 5th December, 1994. The petitioner was first appointed on 5th July,1991. In fact the material now produced on behalf of the petitioner would indicate that the post was being advertised right from 1983. Considering the above we set aside the decision of the State Government rejecting the proposal for deserving the post on the ground that it did not comply with the Government Advertisement dated 5th December, 1994.

3. The College to forward the necessary advertisement along with the proposal to the University by the first week of January, 2007. The University on receipt thereof immediately forward the proposal within two weeks thereafter. The Government thereafter considering that the petitioner has worked for a long time and further that she is going to retire on 30th June, 2007 to consider the proposal both according to law and also sympathetically and take a decision at any rate not later than 16th February, 2007. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J)

(ANOOP V. MOHTA J).